

**REPORT TO: PLANNING & TRANSPORTATION COMMITTEE - 16 OCTOBER 2006**

**REPORT ON: DRAFT SCOTTISH PLANNING POLICY 11: PHYSICAL ACTIVITY AND OPEN SPACE**

**REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION**

**REPORT NO: 538-2006**

## **1 PURPOSE OF REPORT**

1.1 To seek the committee's agreement to a response to the Scottish Executive's consultation on Draft Scottish Planning Policy 11: Physical Activity and Open Space.

## **2 RECOMMENDATION**

2.1 It is recommended that committee agrees that the appendices 1 and 2 to this report be forwarded to the Scottish Executive as the city council's response to the Draft SPP11.

## **3 FINANCIAL IMPLICATIONS**

3.1 There are no direct financial implications arising from this report.

## **4 SUSTAINABILITY POLICY IMPLICATIONS**

### **4.1 Sustainability**

4.1.1 The report supports the following Sustainability policies:

- Compliance with Environmental Legislation. The report suggests a response to the Scottish Executive's invitation to comment on draft statutory document referred to in the title of this report.
- Transport and Travel. The proposals seek to establish a strategic spread of open space and recreational facilities across the city and thereby reduce the need to travel to access them.
- Open Space and Woodlands. The report outlines the Scottish Executive's recommendations for achieving this objective.

### **4.2 Strategic Environmental Assessment**

4.2.1 Not relevant.

### **4.3 Anti-Poverty**

4.3.1 Not relevant.

## **5 EQUAL OPPORTUNITIES IMPLICATIONS**

5.1 One of the main aims of the Draft SPP 11 is to ensure that open space and recreational facilities are accessible to all.

## **6 BACKGROUND**

- 6.1 The Scottish Executive has invited comments on Draft Scottish Planning Policy (SPP) 11: Physical Activity and Open Space. When finalised, this will replace National Planning Policy Guidance (NPPG) 11: Sport, Physical Recreation and Open Space.
- 6.2 Draft SPP11 represents a considerable reshaping of NPPG 11, and is supported by Planning Advice Note 65, "Planning and Open Space" published in 2003. It encompasses a more direct approach to the supply, management and enhancement of open space and promotes a diverse range of opportunities for physical activity. The broad thrust of the document is to ensure that local authorities take a pro-active approach to protecting and developing the existing open space network, apply standards for the supply of additional space in new development and promote access to sport and recreation.
- 6.3 There are passages throughout the Draft document where greater clarification would be beneficial, for example with regard to the definition of "open space" itself. These are set out in the full report and commentary on the contents of Draft SPP11 at Appendix 1 forming the basis of the proposed formal response from Dundee City Council to the Scottish Executive at Appendix 2.

## **7 CONSULTATIONS**

- 7.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Assistant Chief Executive (Community Planning) and the Director of Leisure & Communities have been consulted and are in agreement with the contents of this report.

## **8 BACKGROUND PAPERS**

- 8.1 There are no background papers with regard to this report.

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## **Appendix 1 - Report and Commentary on Draft SPP11: Physical Activity and Open Space**

### **1 INTRODUCTION**

- 1.1 SPP11 seeks to protect existing open space resources and facilities for sport and recreation and ensure that future needs can be met. Local Authorities are required to undertake an open space audit and develop an appropriate strategy. Dundee's Public Open Space Strategy was published in 1999 and is currently undergoing review.

### **2 POLICY CONTEXT AND OBJECTIVES**

- 2.1 The Draft promotes the importance of key developments such as the Land Reform (Scotland) Act 2003. Dundee's Outdoor Access Strategy which is the main vehicle for implementing the Act in Dundee was approved by Policy and Resources Committee in August 2005 (Report N° 484-2005). The framework and timescales for the production and development of a core paths plan through the Strategy were approved by the above committee on 13 February 2006 (Report No 71-2006).

- 2.2 The key objectives of the SPP are:

- to ensure a strategic approach to sport and open space provision;
- to protect and enhance networks of open space;
- to support opportunities for active and passive recreation;
- to set standards for the quantity and quality of open space in new developments and provide for its long term maintenance;
- to provide guidance on planning for developments of new sports and recreation facilities.

- 2.3 Particular emphasis is given in the Draft to the first and fourth of these objectives. Open space requirements must be regularly updated for inclusion within development plan reviews.

### **3 RAISING STANDARDS**

- 3.1 This section recommends that "the value of individual sites should be formalised in the statutory development plan."
- 3.2 Dundee Local Plan Review 2005 does not differentiate between the different levels of provision nor between sites within or across levels but affords equal protection and promotes the improvement of each. The above suggestion needs careful clarification as to how and why this should be carried out and for what purpose, as the implication is that sites will or should be afforded different levels of policy protection.
- 3.3 It is suggested that Local Authorities should indicate the financial costs associated with good quality open space. This needs further clarification to ensure that it is not being suggested that these costs should be reflected in the development plan itself.

3.4 The suggestion that local authorities should indicate costs to a developer per se is a difficult one as it may leave the authority open to criticism and perhaps even financial claims against the council.

#### **4 PROTECTION OF OPEN SPACE**

4.1 SPP 11 states that valued and functional open space must be protected including space capable of being brought back into functional use even if a long term surplus has been identified. Development is only acceptable if replacement open space is provided. On the face of it this is clearly circular and requires further explanation.

4.2 The use of the phrase 'Capable of being brought back into functional use,' is too open ended and effectively mothballs land for an indeterminate time.

4.3 A sequential test is implied for the reuse of open space:

- Firstly, where there is an oversupply of one type of open space in an area the Development Plan should consider whether any other types of open space could be designated;
- Secondly, evidence from the open space audit must show that there will be no deficit of open space within a locality where development of a site is proposed and that any community concerns have been met;
- Thirdly evidence that the proposed development is required and alternative sites considered.

4.4 The first requirement assumes use types will be reflected in the plan itself. This is neither clarified nor explained in the SPP and could mean separate designations for use types such as allotments, recreational open space, cemeteries, village greens, civic spaces and others. The Dundee Local Plan identifies open space provision and the Open Space Strategy identifies how this is apportioned. This is a more easily understood and workable system.

4.5 The third requirement is that there is evidence that the proposed development is required. No further indication is given as to what this means, who should require it or what for.

4.6 An application for planning permission must be notified to Scottish Ministers if:

- it is intended to grant planning consent for development on land identified as open space in the development plan;
- it is intended to grant planning consent for development on open space where the local authority has a financial or ownership interest and there is a substantial body of objection;
- Sportscotland lodge an objection to development proposals affecting exiting sports facilities;

The second of these is covered by the first. It is stated that local authorities should specifically protect open space which is in local authority ownership, however there are no special measures introduced by the SPP to support this and separate planning policies cannot be developed on the grounds of ownership.

## **5 PLANNING FOR OPEN SPACE WITHIN NEW DEVELOPMENT**

5.1 Minimum standards of quantity of open space are included within the SPP across six different use classes of development. These include:

- class 1 retail
- class 4 business
- class 5 industry
- class 6 distribution
- class 9 residential
- class 10 leisure

5.2 Each individual class of development above is accompanied in the Draft SPP with a minimum standard of open space. For class 9: Residential consisting of 10 residential units or more a minimum of 60m<sup>2</sup> of open space should be provided, for example. Stating a minimum in this way raises concern that this quantity will in turn become the norm or a target to be achieved by development and that quality will thereafter become something for discussion and compromise.

5.3 Where existing levels of open space are adequate a financial contribution towards maintenance or management may be appropriate in the order of:

- first, to meet the need for off site facilities in the local area;
- second, to meet the need for off site quality improvement in the local are;
- third, to meet the need for wider open space provision and management.

This third option begs the question "how wide?"

5.4 It is recognised in the SSP that poorly managed or neglected open spaces not only fail to meet the needs of communities but can seriously detract from the quality of the environment and inhibit regeneration and development.

## **6 OUTDOOR ACCESS AND RECREATION**

6.1 Linked good quality green spaces are to be promoted, within housing or business park development for example, with a network of green corridors emerging where possible. Core paths and access rights over land and inland water are material considerations in determining applications for planning consent.

## **7 CONCLUSION**

7.1 There are passages through the Draft document where more detail would be beneficial, for example with regard to 'open space' itself. This is taken to include woodland but it is not clear whether this means all woodland or only that woodland which the planning authority designates as open space. The difference could affect how the impact of using trees as a medium or long term method of treating derelict or vacant space is viewed. Similar difficulties might arise if sites allowed to develop as low level short or medium term wildlife sites are now to be given the full protection as open space sites, e.g. Riverside Nature Park.

7.2 One of the most significant passages is in relation to the minimum open space standards for new development. It is proposed that these minimum standards would apply across the whole of the development plan area. No direction is offered with regard to different open space needs, for example new development within the city

centre as opposed to the inner city, suburbs or village development. In Dundee each of these categories demands a different policy approach.

- 7.3 With regard to minimum standards of open space provision within the remaining affected use classes, retail, business, industry, distribution and leisure, it will be particularly important to ensure that such areas were not allowed to lapse into untidy vacant ground particularly associated with uses such as Class 6 Distribution where there may be few workers or visitors to the premises.

## Appendix 2 - Comments on Draft Scottish Planning Policy 11; Physical Activity and Open Space

### 1 GENERAL

- 1.1 This paper addresses consultation questions which appear throughout Draft SPP11 and should be read in conjunction with the accompanying report: Report and Commentary on Draft SPP11: Physical Activity and Open Space which was presented to Dundee City Council Planning and Transportation Committee on 16th October 2006. Both should be read together as the consultation questions do not cover all that Dundee City Council wish to respond to with regard to the Draft SPP.

### 2 CONSULTATION QUESTIONS

- 2.1 *Q1 We propose that the (Open Space) Audit and Strategy should be updated at least every 5 years to inform the review of the development plan. Comments are invited on the proposed timescale for updating of the audit and strategy. Do you consider that there is a need for annual monitoring of changes in local provision of green/open space?*

A. Agreed that a review timescale of 5 years is appropriate. The Dundee Open Space Strategy is implemented by an Action Plan with corporately agreed time scales. While some form of monitoring of the Strategy is essential this should be flexible across local authority areas to reflect local circumstances and partnership arrangements.

- 2.2 *Q2 Do you agree that the SPP should include a model development plan policy for protection of open space, such as:*

*"Development on areas of open space shown on the proposals Map, including playing fields and green networks, will not be permitted unless the area has been identified as surplus to the community's current and future requirements through the Council's open space strategy. Where, exceptionally, development affecting an area of designated open space is permitted, the effects on openness will be minimised and the area will be improved and managed for its recreational, educational and natural heritage values in the long term. The planning authority may use conditions or agreements to achieve the objectives of this policy."*

A. A model policy could be helpful to Planning Authorities in forming their own local interpretation of what Development Plan policy should seek to achieve however the model must not be mandatory. With regard to the above example, the Draft SPP recommends updating the Open Space Strategy every 5 years, meaning that sites found to be surplus to requirement could in effect lie undeveloped for anything up to this length of time under such a policy. Development plan open space policies should be informed rather than restricted by the Open Space Strategy.

The proposed policy also introduces a new concept of 'openness' which is not referred to in the Draft SPP and could cause difficulties of interpretation.

- 2.3 *Q3 and Q4 For development proposals likely to affect other types of open space not included in the remit of sportscotland, is there a need for further consultation arrangement, for example with Scottish Natural Heritage or Greenspace Scotland?*

*Should controls extend to demolition of facilities to avoid the potential for removal of sports facilities without consultation with sportscotland?*

A. Dundee benefits from a detailed procedural agreement with Scottish Natural Heritage in dealing with statutory town planning issues and consultation arrangements. There are no further consultation arrangements required as Greenspace have a leading role in the development of the Open Space Strategy and the strategy itself is subject to extensive consultations.

2.4 *Q5 and Q6 These standards (ie Minimum standards for new developments) are derived from the research into Minimum Standards for Open Space. Do you consider the proposed standards and thresholds to be appropriate? Are there other types of development that you consider should be included in the standards?*

*These standards are intended a minimum standards, with local authorities adopting their own more stringent standards where appropriate. Should there be a different set of minimum standards for the quantity of open space required in developments in rural areas? Do you have views on appropriate thresholds and quantities?*

A. Stating a minimum in this way raises concern that this quantity will in turn become the norm or a target to be achieved by development and that quality will thereafter become something for discussion and compromise. The results of the Open Space Strategy and Audit as well as supplementary planning guidance will inform the amount of space required in any particular area.